



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0109; FMCSA-2013-0444]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to renew exemptions for 10 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have “no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.” The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions was effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

II. Background

On October 20, 2016, FMCSA published a notice announcing its decision to renew exemptions for 10 individuals from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (81 FR 72663). The public comment period ended on November 21, 2016, and one comment was received on January 12, 2017, FMCSA published a second notice announcing its decision to renew exemptions for the same 10 individuals from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (81 FR 72663). The public comment period ended on February 13, 2017, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

III. Discussion of Comments

In response to the October 20, 2016, notice, FMCSA received one comment in support of Mr. Troff receiving an exemption. No comments were received in response to the January 12, 2017 notice.

IV. Conclusion

Based upon its evaluation of the 10 renewal exemption applications and comments received, FMCSA confirms its' decision to exempt the following drivers from the Epilepsy and Seizure Disorders requirement in 49 CFR 391.41 (b)(8), subject to the requirements cited above.

As of June 9, 2016, David Crowe (VA), has satisfied the renewal conditions for

obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), from driving CMVs in interstate commerce (81 FR 72663). This driver was included in FMCSA-2013-0109. This exemption was effective on June 9, 2016, and will expire on June 9, 2018.

As of June 24, 2016, the following 9 individuals have satisfied the renewal conditions for obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8) from driving CMVs in interstate commerce (81 FR 72663):

Travis Arend (VA)	Heath Crowe (LA)
Richard Degnan (AZ)	Peter DellaRocco (PA)
Domenick Panfie (NJ)	Scott Reaves (TX)
Milton Tatham (NV)	Thomas Tincher (VA)
Duane Troff (MN)	

These drivers were included in FMCSA-2013-0444. These exemptions were effective June 24, 2016, and will expire June 24, 2018.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: May 26, 2017.

Larry W. Minor,

Associate Administrator for Policy.

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